



This is the 1<sup>st</sup> affidavit  
of Robert Wallis in this case  
and was made on 22/Sep/2020

No. S209201  
Vancouver Registry

In the Supreme Court of British Columbia

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED

AND

IN THE MATTER OF MOUNTAIN EQUIPMENT CO-OPERATIVE AND 1314625 ONTARIO  
LIMITED

Petitioners

#### **AFFIDAVIT**

I, ROBERT WALLIS, of 1077 Great Northern Way, Vancouver, British Columbia,  
Businessperson, AFFIRM THAT:

1. I am a director of the Petitioner, Mountain Equipment Co-operative ("**MEC**") and Chair of the Special Committee, and as such, I have personal knowledge of the facts and matters hereinafter deposed to, except where stated to be based on information and belief, in which case I verily believe the same to be true.

#### **INTRODUCTION**

2. All capitalized terms not otherwise defined in this affidavit will have the same meaning as given to them in the first affidavit of Philippe Arrata made in this proceeding on September 13, 2020 (the "**First Arrata Affidavit**"). I make this affidavit in support of the Petitioners' application for, among other things, court approval of the Sale Agreement.
3. I have read the First Arrata Affidavit, and this affidavit should be read in conjunction that that affidavit.

#### **THE SPECIAL COMMITTEE**

4. As discussed in the First Arrata Affidavit, beginning in around 2015 and prior to the election of almost all of MEC's current Board, MEC embarked on a significant growth plan. This plan was discussed in the Annual Report presented at MEC's 2015 AGM, which discussed plans to open new stores and relocate certain existing stores to larger spaces. This growth plan resulted in increased sales, however store profitability was less

than expected. In addition, to support the expanded number of locations, MEC increased overhead costs significantly as well as increased debt levels.

5. MEC recorded normalized operating losses of approximately \$80 million from 2015 to 2020. In the fiscal years ending February 2019 and February 2020, those normalized operating losses (removing any gains on the sale of certain real estate) were especially significant, being approximately \$31,430,000 and \$24,535,000 respectively.
6. As a result of these ongoing financial difficulties, in or around February 2020, MEC engaged the Financial Advisor primarily to assist in MEC's efforts to secure refinancing, as the Credit Facility with the Lenders, entered into in 2017, was approaching maturity. The goal at that time was to find refinancing to repay the Credit Facility and try to reduce fixed costs while maintaining MEC's brand, community engagement efforts, and member experience at its various stores.
7. However, shortly after the Financial Advisor was engaged, the COVID-19 pandemic arrived in North America and immediately and drastically changed the market and financial reality for lenders and notably, all retailers, including MEC. As a result of the pandemic, MEC had to close all of its stores, some of which have still not re-opened. The impact on MEC's revenue and operations was immediate, resulting in a \$90 million reduction in sales between March and September 2020 as compared to the same period last year.
8. Although the Special Committee was formally established by the MEC Board on March 27, 2020, it began its efforts prior to that date on an informal basis to respond to the COVID-19 pandemic.
9. On March 27, 2020, the MEC Board held a meeting and resolved to establish the Special Committee, for the express purpose of making recommendations to the MEC Board on strategic alternatives requiring in-depth review and consideration in an expeditious manner. Attached hereto and marked as **Exhibit "A"** to this my Affidavit is a true copy of the Charter approved by the MEC Board creating the Special Committee.
10. The Special Committee was established to be, among other things, independent from management and free from any interest or business or other relationship that could materially interfere with the exercise of their independent judgment or ability to act with a view to the best interests of MEC in connection the Special Committee's mandate.
11. The strategic alternative transactions to be considered by the Special Committee may have included (a) soliciting interests, proposals and offers from potential partners or purchasers with the view to the sale of all or substantially all or any portion of the assets of MEC or a merger, amalgamation, business combination or other form of strategic alliance or combination involving MEC; (b) pursuit of organic growth; (c) recapitalization, restructuring or reorganization; or (d) any other strategic alternatives for MEC (any or any combination of which is referred to as "**Strategic Alternatives**").

12. I, along with Judi Richardson and Matthew Handford, formed the Special Committee. I acted as the Chair of the committee.
13. I have over 25 years of executive leadership and board experience in various industries, corporate structures and countries. I have a degree in Business and Commerce from the University of Alberta and am a member of the Institute of Corporate Directors and a past member of the Canadian Institute of Chartered Accountants.
14. Ms. Richardson has over 28 years of start-up, entrepreneurial and corporate experience in her business consulting practice and various Board roles. She has a York University MBA and certification as a Royal Roads University Executive Coach and corporate director through the Institute of Corporate Directors.
15. Mr. Handford has held executive roles with companies including Hootsuite, Westjet and the Forzani Group, and is currently the Chief People Officer at a global airport management, development, and investment company based in Vancouver. He also spent more than 10 years as a founder/co-owner of a specialty bicycle retailer. He also holds several degrees from Queen's University including a Master's of Industrial Relations.

#### **EFFORTS TO OBTAIN REFINANCING**

16. From March 23, 2020 onwards, the Special Committee met over 40 times by teleconference or videoconference. The Special Committee meetings would also often include the Financial Advisor, legal counsel from Norton Rose Fulbright Canada LLP, and members of management such as Philippe Arrata and Joanna Ban (being MEC's CEO and CFO respectively), who would provide the Special Committee with financial and operations updates as needed, and would facilitate communication between the committee and management. The Special Committee would also regularly meet in camera without the presence of management.
17. In the period of March and April 2020, the Special Committee, with the assistance of legal advisors and the Financial Advisor, considered various financing options, and considered government assistance programs being offered as a result of the COVID-19 pandemic, among other things.
18. As discussed in the First Arrata Affidavit, the Special Committee and the Financial Advisor spoke to 66 lenders about refinancing options and received very few term sheets, none of which would have paid the Lenders in full and left the Petitioners in a position to move forward as a profitable business.
19. The Special Committee explored the possibility of seeking the benefits of the Large Employer Emergency Financing Facility (LEEFF) program from the federal government and the Mid-Market Financing Program for medium-sized businesses particularly impacted by the COVID-19 pandemic, but MEC either did not meet the conditions of such programs or the costs of such programs were prohibitive.

20. The Special Committee also considered the possibility of requesting funding from members; however, given the magnitude of initial and ongoing funding that was required (to pay out the Credit Facility, cover significant operating losses moving forward, and other capital expenses), the execution risk presented by the practical requirement that a high majority of all active members participate, and the negative impact that a public plea for member funding would have had on MEC's business, including with respect to its suppliers and landlords, and other refinancing or potential sale or investment transaction, the Special Committee ultimately decided not to recommend that approach, as being impracticable to impossible.
21. I am aware there is discussion online about the prospect of member funding to solve MEC's financial predicaments, which does not seem to appreciate the gravity of MEC's financial difficulties. To be clear, in addition to the amount of the Credit Facility, the Petitioners needed, among other things, funds to cover future operating losses (which were approximately \$24.5 million last year), and other capital expenses to improve infrastructure for future costs savings. The amount MEC required to move forward was significantly higher than the amount of the Credit Facility. For the reasons noted above, the negative impact of a public plea for funding on MEC's stakeholders was too great given the negligible chance that sufficient funding would be obtained.
22. In the period of April and May 2020, the Special Committee considered information from the Financial Advisor regarding the impact of COVID-19 on the prospects of refinancing opportunities, discussed potential term sheets and negotiations with lenders in respect of refinancing, and entered agreements with the Lenders with respect to certain waivers under the terms of the Credit Facility. We reviewed the possibility of a long-term extension of the Credit Facility but through discussions with the Lenders, which included the impact of COVID-19, it became apparent that the Lenders would likely be reluctant to entertain such extension without a significant improvement in the financial performance of MEC. Further, any third-party refinancing was not reasonably available to be placed.
23. The Special Committee considered the merits of marketing certain real estate assets to obtain cash flow to refinance the Business. However, that option did not prove to be viable, as the value of retail real estate was negatively impacted by the pandemic. The Petitioners also sought refinancing and merger opportunities with other co-operatives, but such efforts were unsuccessful.
24. Unfortunately, after significant efforts by the Petitioners and the Financial Advisor, there were no refinancing options available that would have repaid the Credit Facility and left MEC in a position to succeed moving forward. A sale of MEC's business was not the initial priority in terms of strategic alternatives for MEC, but after other potential options were exhausted, the Special Committee and the Financial Advisor considered the sale option to avoid liquidation of MEC's business.

**SISP**

25. Although the Special Committee was satisfied with the services provided by the Financial Advisor, it also interviewed and considered retaining other strategic and financial advisory firms, including representatives of traditional investment banking firms and accounting to assist MEC with investment or sale strategic options, if that process became necessary. Ultimately, given the Financial Advisor's expertise in distressed and turnaround management, and experience with MEC's financial situation generally, the Special Committee believed that continuing with the Financial Advisor for that role was in MEC's best interests.
26. In the period of June and July 2020, through negotiations with the assistance of the Financial Advisor and legal counsel, the Lenders agreed to extend the Credit Facility through September 2020. Given the unavailability of suitable refinancing in the current financial climate, the Special Committee, in consultation with management and the MEC Board, expanded the engagement of the Financial Advisor to, among other things, assist the Petitioners with the initiation of a process to seek out proposals for the acquisition of, or an investment in, MEC's business or assets, and to implement one or a combination of such proposals, all with a view towards rectifying MEC's financial difficulties and maximizing value for its stakeholders.
27. The expansion of the Financial Advisor's engagement in this regard occurred after the MEC Board held a meeting, where it received a report from the Special Committee on the results of the refinancing process and review of other options, and determined that the strategic alternatives being actively considered should be expanded to include a potential sale of some or all assets.
28. While the Petitioners and the Financial Advisor continued to search for refinancing opportunities, the financial reality of the COVID-19 pandemic, which had compounded existing financial difficulties of MEC (and the retail sector generally) to an unprecedented degree, required that the Petitioners initiate a formal sale and investment solicitation process (the "**SISP**"), in consultation with the Financial Advisor.
29. The Special Committee continued to meet on a frequent basis throughout the SISP, and worked with the Lenders to negotiate the Second Amended Credit Agreement, the Third Amending Agreement and subsequently, the terms of the Interim Financing Credit Agreement, the details of which are discussed in the First Arrata Affidavit.
30. The Petitioners and the Financial Advisor considered that conducting the SISP prior to commencing any CCAA proceedings would avoid the likelihood of a distressed-asset sale situation and preserve MEC's relationships with its vendors, customers, and service providers in a critical time for MEC's business.
31. The Lenders were made aware of and supported the MEC Board's decision to pursue the SISP. The Petitioners did not consult its other creditors and potential creditors such as suppliers and service providers because involving such parties would have likely

resulted in damage to MEC's business relationships and potentially decisions by vendors and service providers to stop or limit supply or services to MEC, reducing MEC's ability to maximize its value as a going concern.

32. Throughout this process, the Petitioners and the Financial Advisor engaged with potential bidders who undertook extensive due diligence and engaged supporting subject matter experts in finalizing their bids. The potential bidders made a number of requests for information, and the Petitioners and the Financial Advisor were responsive to requests for information and facilitation of due diligence. Meetings were also organized between the bidders and management, and I had the opportunity to meet with the bidders as well. In addition, the Financial Advisor assisted the Petitioners in conducting due diligence on the various bidders, including their debt and equity positions, and history of deal transactions.
33. Once the final were bids provided, the Financial Advisor prepared an analysis of the same, and the Petitioners' legal counsel prepared a summary of terms for each bid. The Special Committee asked the Financial Advisor questions about its analysis and the bids. The Financial Advisor subsequently had discussions with some of the bidders to clarify aspects of their bids, based on feedback from the Special Committee, the Financial Advisor, and the Petitioners' legal counsel.
34. In deciding on a recommendation for the successful bidder, the Special Committee considered a number of factors including total consideration value, closing risk, continuity of operations in terms of employees and stores, alignment with MEC's values, and the assumption of liabilities owing to MEC's suppliers and service providers.
35. In the end, the Kingswood bid was not only the highest in terms of total consideration among the bids, it also would ensure the maximum levels of retention in terms of employees and stores, assumption of liability for warranties, gift cards, and payments to certain suppliers and service providers, as well as the lowest closing risk.
36. Further, and importantly, each of the bidders was asked to consider and express their intentions towards maintaining MEC's purpose, values and benefits to members as part of their bids. Under the Sale Agreement, in addition to the Purchaser's commitment to honour existing gift cards and warranties, the Purchaser will also, among other things:
  - (a) maintain MEC's "Rocksolid Guarantee" 30-day price matching policy and commitment to creating community hubs that are more than just simply store locations;
  - (b) plan various initiatives to provide value and benefits to members to demonstrate its commitment to them and MEC's brand;
  - (c) improve merchandise assessment and assortment to continue maintaining the highest quality products; and

- (d) operate facilities and operations with a sustainable footprint in line with Environmental, Social and Governance investment criteria.
37. On September 4, 2020, the MEC Board held a meeting and the Special Committee and the Financial Advisor summarized the final bids and the Special Committee made the recommendation to select the offer from Kingswood as the successful bid. After consideration of the recommendation, the MEC Board resolved to authorize the Special Committee to, among other things, continue to conduct negotiations with respect to Kingswood as the preferred bidder, and supervise the preparation, negotiation and settlement by the Petitioners' counsel and the Financial Advisor of the definitive agreements to be entered into in respect of Kingswood's bid.
  38. Further negotiations then ensued with Kingswood in respect of financial and legal aspects of its offer, draft documents were exchanged by the parties and follow up discussions were held as necessary. As a result of those negotiations and after considering Kingswood's offer and the alternatives available, the Financial Advisor recommended to the Special Committee, and the Special Committee subsequently recommended to the Board, that MEC enter into the Sale Agreement with the Purchaser.
  39. After carefully considering Kingswood's offer, including being satisfied that the purchase price offered thereunder was fair and reasonable, the Board determined that Kingswood's offer was in the best interests of the Petitioners and their stakeholders.
  40. The Transaction also offers crucial further benefits, including that it will result in the continued and seamless operation of a minimum of 17 of MEC's stores, with offers of employment being extended to at least 75% of active MEC employees.
  41. The Purchaser has represented that it has the financial ability to close the transaction and is otherwise qualified to perform its obligations in respect of the Purchased Assets.
  42. It is my understanding that the Monitor has carefully reviewed the process leading to the proposed Transaction and the terms of the Sale Agreement and supports the Petitioners' application seeking approval of the Sale Approval and Vesting Order. I also understand that the Lenders also support the Transaction and the Petitioners' application for the Sale Approval and Vesting Order.

### **The Sale Agreement**

43. Defined terms used but not defined in this section of my Affidavit are as defined in the Sale Agreement, a redacted copy of which is attached as **Exhibit P** to the First Arrata Affidavit, and an unredacted copy of which is attached as **Exhibit B** to the Confidential Second Affidavit of Philippe Arrata made 13/Sep/2020.
44. Key features and terms of the Sale Agreement are as follows:
  - (a) The Purchaser (referred to as the "Buyer" in the Sale Agreement) will pay the Purchase Price in cash and by the assumption of the Assumed Liabilities. The

Purchase Price is subject to certain adjustments as set out in the Sale Agreement. The parties have agreed that, on Closing, a certain portion of the Purchase Price shall be held in escrow with counsel to the Monitor and shall be applied to address any final negative adjustment to the Purchase Price, all as set forth in the Sale Agreement.

- (b) The Purchaser has paid a Deposit Amount equal to a substantial portion of the Purchase Price to counsel to the Monitor to be held in trust in an interest-bearing account. On Closing, this Deposit Amount and all earnings thereon will be paid to the Petitioners and applied to the Purchase Price. If the Sale Agreement is terminated because of any material violation or breach by the Purchaser of any of its obligations under the Sale Agreement, then the Deposit Amount will be forfeited to the Petitioners as liquidated damages and their sole and exclusive remedy.
- (c) The Purchaser has obtained a commitment letter from certain affiliated funds of Kingswood for an amount that is sufficient to permit the Purchaser to pay the Purchase Price, and all of the other costs and expenses in connection with the consummation of the Transaction.
- (d) On the Closing Date, the Purchaser will acquire all of the Petitioners' respective right, title and interest in and to the Purchased Assets on the terms and conditions set out in the Sale Agreement. The Purchased Assets are defined as all of the assets, property and undertakings owned or used or held for use by the Petitioners in connection with the "Business", which in turn is defined as the entire business and operations of the Petitioners with the exception of the Excluded Assets and Excluded Liabilities.
- (e) The Purchaser will not acquire certain limited Excluded Assets, including certain leases in respect of locations that are not designated by the Purchaser as "Purchased Locations" to be purchased or assumed (which must be so designated by no later than October 5, 2020) and cash and cash equivalents (other than cash maintained at retail locations).
- (f) The Purchaser agrees that it will, as and from the Closing Date, pay, discharge and perform all of the obligations on the part of the Petitioners with respect to the Assumed Liabilities, which include among other things, obligations under assumed contracts, personal property and real property leases arising after Closing, liabilities relating to the Purchaser Assets and the operation of the Business as acquired and arising in the period after Closing, and liabilities arising out of gift cards as well as warranties in relation to products sold by the Petitioners (whether prior to or after the Closing).
- (g) The Purchaser will also be assuming pre- and post-filing liabilities owed to any "Key Suppliers" designated prior to October 5, 2020.



- (h) Subject to the terms of the Sale Agreement, the Purchaser is purchasing, accepting and assuming the Purchased Assets on an “as is, where is” basis.
- (i) The Purchaser agrees to provide at least 75% of MEC’s active employees in the purchased locations with offers of employment, which offers must be substantially similar and no less favourable in the aggregate for each individual employee to the terms that they currently enjoy.
- (j) The Sale Agreement and the Transaction contemplated therein is subject to obtaining relevant Regulatory Approvals (being *Competition Act* approval), and the Court issuing the proposed Sale Approval and Vesting Order, among other things;
- (k) As a condition of Closing:
  - (i) no event having a Material Adverse Effect shall have occurred and no material damage to the whole or any material part of the purchased locations that could reasonably result in a material impact to the acquired business shall have occurred; and
  - (ii) the Lenders must be paid in full on Closing or have otherwise agreed in their sole discretion that Closing may proceed;
- (l) The Closing is expected to take place once the conditions precedent to Closing have been waived to satisfied as provided in the Sale Agreement, which is anticipated to be prior to mid-October 2020;
- (m) The Petitioners have agreed to use commercially reasonable efforts in cooperation with the Purchaser to obtain the written consent of:
  - (i) the landlord to the assignment of Real Property Leases to the Purchaser in respect of each of the Real Property Leases that relate to Purchased Locations;
  - (ii) any person or counterparty, to the assignment of an Assumed Contract that is a Material Contract to the Purchaser; and
  - (iii) any person or counterparty to the assignment of a Personal Property Lease to the Purchaser,or alternatively, to obtain such assignments by an Assignment Order.
- (n) It is a condition of Closing that that a specific subset of the Assumed Contracts, being the Material IT Contracts, be assigned to the Purchaser, whether by consent (where required) or by an Assignment Order. Should any required consents to assignment not be obtained by October 5, 2020 (whether for the Material IT Contracts or for any other of the above agreements to be assigned), the Petitioners expect and have agreed to return to this Court to seek an

Assignment Order assigning the Petitioners interest in such agreements to the Purchaser pursuant to section 11.3 of the CCAA.

- (o) With the exception of the Material IT Contracts, if the Petitioners are unable to obtain a consent or an Assignment Order in respect of an Assumed Contract, the parties are still obligated under the Sale Agreement to complete the transactions contemplated therein, without any reduction or adjustment of the Purchase Price.
  - (p) Where they are unable to obtain the necessary consents, the Petitioners have undertaken to make an application for an Assignment Order assigning all of its rights and obligations under the contract in question to the Purchaser. The Purchaser has also undertaken to pay any Cure Costs that may be payable in respect of any assigned contract.
45. The Petitioners believe that the approval of the Sale Agreement is a matter of urgency. Any extension or delay in obtaining Court approval and Closing may have serious and detrimental consequences for its business and stakeholders, including, but not limited to, its employees, members and suppliers. This is particularly the case given the extent of the Petitioners' ongoing weekly operating losses, as shown in the Petitioners' Cash Flow Forecast, and the importance that any potential purchaser of the Business would have to close this transaction in sufficient time to take advantage of the coming holiday sales period.
46. The projections reflect an erosion of the borrowing base under the Interim Financing Facility and cash availability becomes very tight under the borrowing base calculation towards the end of October. It is therefore imperative that matters progress as quickly as possible so that MEC's customers, suppliers, landlords and employees have confidence that MEC will continue as a successful going concern.
47. Given the recent rise in COVID-19 transmissions across Canada, there is also a real and unpredictable risk that increased COVID-19 rates and/or restrictions would result in further deterioration in sales below those set out in the Updated Cash Flow Forecast provided by the Monitor, which would in turn jeopardize the availability of the Interim Financing Facility or ability to meet the closing condition of requiring repayment of the Credit Facility. The Lenders have confirmed they require a timely completion of the Transaction.
48. Contrary to baseless rumours and allegations online, I confirm that none of the MEC Board members are receiving any incentives or compensation in respect of the Transaction, and are only receiving the director fees that were agreed to by the members at the last annual general meeting. Further, the Petitioners' advisors bill on an hourly basis for their consultation services and do not receive any commission or percentage of any sale of MEC's business.

## Post-Filing Activities and Communications

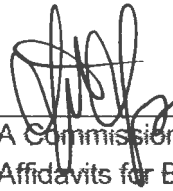
49. Since the Initial Order hearing on September 14, 2020, the CCAA Petition materials have been posted on the Monitor's website at <https://www.alvarezandmarsal.com/MEC>.
50. In addition, the Petitioners distributed correspondence to their suppliers dated September 14, 2020, a copy of which is attached hereto and marked as **Exhibit "B"** to this my Affidavit.
51. Further, the Petitioners distributed a letter update to MEC's members dated September 18, 2020 via e-mail to members with current e-mail addresses. Attached hereto and marked as **Exhibit "C"** to this my Affidavit is a true copy of that letter update to the members.
52. Since the granting of the Initial Order, the Petitioners have taken steps to notify their creditors and stakeholders of these proceedings, and advance their efforts to complete the Sale Agreement and continue its restructuring under the CCAA. These steps include:
  - (a) ensuring ongoing supply and services from third-party vendors and contractors, by, among other things, entering into cash and deposit agreements with certain suppliers and service providers;
  - (b) responding to information requests from members and creditors of the Petitioners;
  - (c) meeting and working with the Monitor to facilitate the monitoring of the Petitioners' business and operations;
  - (d) continuing the operations and business of MEC; and
  - (e) working with the Purchaser and the Monitor on the steps required under the Sale Agreement, including preparing materials for the application for approval of the Sale Agreement, and the other relief regarding the Amended and Restated Initial Order.
53. In the time since the granting of the Initial Order, the Petitioners have been and are acting in good faith and with due diligence to maximize the value of their stakeholders and respond to their concerns.

## Conclusion

54. In the view of the Special Committee and the Petitioners, the process we carried out with the assistance of the Financial Advisor to seek out refinancing, and subsequently, bids for the sale of substantially all of MEC's business, was conducted in a fair, transparent and thorough manner, designed to maximize value for the Petitioners and their stakeholders, and undertaken in continuous consultation with the Lenders as the Petitioners' primary secured creditors, and resulted in the best possible outcome for the Petitioners in the circumstances.

55. Importantly, the Transaction will ensure that most of MEC's retail stores will remain open and a majority of MEC's employees will remain employed. It will result in many of MEC's accounts with vendors and service providers being paid, and the continuation of MEC's principles of community engagement and promotion of a healthy outdoor lifestyle. Without the Transaction, given MEC's difficult financial situation and the ongoing COVID-19 pandemic, MEC will cease operations and its assets will be sold to pay outstanding liabilities, and none of the above results would be achieved.

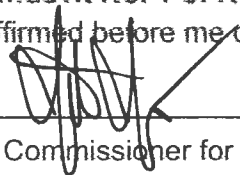
AFFIRMED BEFORE ME at <sup>Vernon</sup> ~~Vancouver~~, )  
British Columbia, on 22/Sep/2020. )

  
\_\_\_\_\_  
A Commissioner for taking )  
Affidavits for British Columbia )

  
\_\_\_\_\_  
Robert Wallis

**JONATHAN JONES**  
*Barrister and Solicitor*  
#301 2706-30 Avenue  
Vernon BC V1T 2B6  
Telephone (250) 542-5353

This Exhibit "A" referred to in the  
**Affidavit No. 1 of Robert Wallis**  
Affirmed before me on 22/Sep/2020

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

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A Commissioner for Taking Affidavits  
for British Columbia



## Strategic Alternatives Committee Charter

### Purpose:

The Strategic Alternatives Committee (the “**Special Committee**”) has been established by the Board of Directors of Mountain Equipment Co-operative (the “**Cooperative**”) for the express purpose of making recommendations to the Board on strategic alternatives requiring in-depth review and consideration in an expeditious manner.

The Special Committee will consider, investigate, analyze, review, negotiate or direct negotiations (when considered necessary) and provide advice and recommendations to the Board with respect to potential strategic alternatives considered to be in the best interests of the Cooperative.

Strategic alternative transactions may include, without limitation, (a) soliciting interests, proposals and offers from potential partners or purchasers with the view to the sale of all or substantially all or any portion of the assets of the Cooperative or a merger, amalgamation, business combination or other form of strategic alliance or combination involving the Cooperative; (b) pursuit of organic growth; (c) recapitalization, restructuring or reorganization; or (d) any other strategic alternatives for the Cooperative (any or any combination of which is referred to as “**Strategic Alternatives**”).

The Special Committee may also undertake such other matters are assigned to it by the Board from time to time.

### Mandate:

The Special Committee will:

- operate independently of the Board of Directors while remaining accountable to the Board
- review and evaluate Strategic Alternatives,
- solicit and receive proposals in respect of Strategic Alternatives as the Special Committee considers appropriate,
- negotiate or supervise the negotiations of proposals for Strategic Alternatives,
- to the extent consistent with the Board’s duties to the Cooperative, consider the interests of all stakeholders in assessing Strategic Alternatives,
- involve senior management and consider their advice where appropriate,

- provide advice, guidance and recommendations to the Board regarding the Strategic Alternatives and acceptance of any proposals,
- review and comment on all relevant and related transaction agreements or other documents in respect of the selected Strategic Alternatives,
- in relation to Strategic Alternatives, determine if it is in the best interests of the Cooperative, and on what terms, confidential information related to the Cooperative and access to management of the Cooperative should be made available to any party, and approve the terms of any confidentiality agreements to be entered into by the Cooperative,
- review and oversee the implementation of selected Strategic Alternatives following approval of the Board,
- making recommendations to the Board regarding external communications regarding matters giving rise to the creation of the Special Committee and selected Strategic Alternatives,
- engage, at the Cooperative's expense, external advisors including independent legal counsel, corporate restructuring professionals, investment bankers and PR/communications advisors as required to assist the Special Committee in their analysis and judgments.

In addition to the forgoing, the Special Committee will be entitled, without further authorization from the Board, to consider all matters that it may determine to be relevant to those listed above, provided that the Special Committee will not enter into any transaction on behalf of the Cooperative or otherwise bind the Cooperative other than in respect of the engagement of advisors or as otherwise specifically authorized under this mandate or by the Board.

Nothing in this mandate shall be construed as to grant the Special Committee the power or authority to manage or supervise the management of the affairs and business of the Cooperative generally or in relation to any specific transaction, except as set out in this mandate.

### **Protocols:**

The Special Committee will:

- appoint one of its members as Chair,
- deliberate independently at each Special Committee meeting,
- meet as frequently as determined to be necessary by the Special Committee or upon request from its Chair,
- establish its own procedures for meetings, including notice, time and place of meetings, quorum and such other matters as the Special Committee may deem appropriate,
- minute all meetings and retain minutes as well as considered Strategic Alternatives and material with external legal counsel,
- review and approve minutes promptly after each meeting,
- communicate regularly with the full Board,
- invite Board members, key management and external advisors to portions of meetings as the Special Committee deems appropriate,

- have the authority to direct management of the Cooperative to cooperate with the Special Committee and its professional advisors as the Special Committee may determine to be necessary to enable the Special Committee to carry out its mandate,
- require any advisors not bound by professional obligations of confidentiality to sign Non-Disclosure Agreements,
- disclose the Special Committee and its purpose in accordance with legal and strategic advice,
- do such other acts and carry out such other duties as the Special Committee considers necessary or desirable to fulfill its mandate.

**Committee Composition:**

- The Committee is to be comprised of independent Directors with no discloseable conflict in relation to a party to any Strategic Alternative or the advisors serving the Special Committee.
- In addition to independence, selection of Directors to serve on the Special Committee will be based on the above mandate, each Director's relevant experience in the context of the mandate, and each Director's ability to commit sufficient time to pursue the mandate diligently.
- The Committee size is to be a minimum of three to a maximum of four Directors currently serving on the MEC Board of Directors.

**Compensation:**

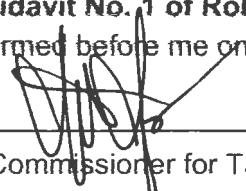
- All related expenses paid as per MEC Director policy
- Committee and Committee Chair fees as per Member-approved compensation plus additional compensation to be recommended by non-Special Committee Board members and ultimately approved by Members

**Term:**

The Special Committee shall, unless otherwise determined by the Board, continue for so long as the Strategic Alternatives are under consideration or pending, and thereafter may terminate upon resolution of the Special Committee.



This **Exhibit "B"** referred to in the  
**Affidavit No. 1 of Robert Wallis**  
Affirmed before me on 22/Sep/2020

A handwritten signature in black ink, appearing to be 'M. S.', is written over a horizontal line.

A Commissioner for Taking Affidavits  
for British Columbia



September 14, 2020

To our valued business partner:

As you may have already learned, on September 14, 2020, Mountain Equipment Co-operative and 1314625 Ontario Limited (together, “MEC”) obtained protection from their creditors pursuant to an Initial Order granted by the Supreme Court of British Columbia (the “Court”) under the Companies’ Creditors Arrangement Act (“CCAA”) providing for, among other things, a stay of proceedings against MEC and appointing Alvarez & Marsal Canada Inc. as monitor of MEC (the “Monitor”). The proceedings commenced under the CCAA by MEC are referred to herein as the “CCAA Proceedings”.

Like many other retailers, due to a challenging retail environment and the impacts of COVID-19, we are currently facing extraordinary financial challenges. Following a comprehensive review of strategic and financial alternatives, we have concluded that the best course of action is to pursue a sale transaction and a restructuring under the CCAA.

MEC entered into an agreement to sell most of its assets to a newly formed British Columbia company, 1264686 B.C. Ltd., which is an affiliate of Kingswood Capital Management, LP. During this restructuring period, we will be seeking approval from the Court to approve that sale. A copy of MEC’s press release announcing the sale is attached.

MEC remains open for business. We intend to continue to do everything we do in our ordinary course of business. Amounts owing to MEC’s vendors and suppliers for goods and services provided to MEC from and after September 14, 2020 will be paid in the ordinary course.

The effect of the CCAA filing prevents creditors, vendors, suppliers and others from enforcing any rights against MEC; suppliers and vendors that are parties to agreements with MEC (written or oral) for the supply of goods or services are not permitted until further order of the Court from discontinuing, altering, interfering with or terminating the supply of such goods or services required by MEC.

Amounts owing to MEC’s vendors and suppliers at the time of September 14, 2020 will be stayed from payment pursuant to the terms of the Initial Order. When a claims process is initiated during the CCAA Proceedings, vendors and suppliers will be provided instructions on how to submit a claim in respect of any outstanding pre-filing amounts. These claims will be considered under a potential plan of compromise and/or arrangement. We fully expect a claims process to be undertaken. At this time, a claims process has not yet commenced. You will be notified once it does.

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Canada

604 707 3300  
info@mec.ca

Mountain Equipment Co-operative

**MEC.CA**

We are committed to our partnership with you and will continue to work closely with you during this process. Your cooperation will allow us to continue serving our customers/members and be a valued business partner during this important time for MEC.

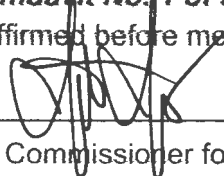
If you have additional questions regarding the CCAA Proceedings, please contact MEC or you can reach out to the Monitor at [MEC@alvarezandmarsal.com](mailto:MEC@alvarezandmarsal.com) or 1-844-768-8244. Additional information can also be accessed on the Monitor's website at [www.alvarezandmarsal.com/MEC](http://www.alvarezandmarsal.com/MEC).

Thank you for your support of MEC during this process. We look forward to strengthening our relationship and to building a stronger future together.

Yours Truly,

MOUNTAIN EQUIPMENT CO-OPERATIVE

This **Exhibit "C"** referred to in the  
**Affidavit No. 1 of Robert Wallis**  
Affirmed before me on 22/Sep/2020



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A Commissioner for Taking Affidavits  
for British Columbia

From: MEC news@em.mec.ca  
Subject: A message from MEC's Board of Directors  
Date: September 18, 2020 at 4:26 PM  
To: news@em.mec.ca

M

The logo for MEC, consisting of the letters 'MEC' in white, bold, sans-serif font, set against a green rectangular background.

Dear valued member,

We recognize this has been an unsettling week for members. The sale of MEC's business, and the decision to move the business away from the co-operative model was, after all, a very difficult decision – but it was the right one. Facing a stark choice, we chose to preserve employment opportunities, a larger store presence, and a commitment to MEC's ethos rather than fold up the MEC tent for good.

As you may know, this week, MEC filed for protection under the Companies' Creditors Arrangement Act ("CCAA"). Effectively, this was a recognition that MEC was financially insolvent, and in dire need of support to continue moving forward. Fortunately, at the same time, our Board of Directors announced unanimous support for an agreement with Kingswood Capital Management, LP. The agreement with Kingswood will ensure that MEC has a brighter future.

We've heard your questions, let us attempt to answer them:

**First, you're probably wondering, "what happened?"**

MEC has experienced increasing performance issues since 2016. In July 2019, new leadership was brought in to develop a plan to turn MEC around. We were making significant progress but then the global pandemic hit and exacerbated MEC's financial challenges.

A Special Committee of the Board engaged in an extensive examination of options to address the persistent financial issues. As part of the review, the Special Committee, in concert with expert advisors, sought refinancing from over 65 potential lenders, proactively explored and leveraged applicable government support programs, and examined funding MEC through voluntary

member assessments.

Ultimately, a sale was the only option that would save MEC from bankruptcy or liquidation.

**We've been asked, "what is CCAA?" and "why don't members vote on this decision?"**

Our persistent financial challenges combined with the pandemic created a situation in which MEC became insolvent, and this necessitated a filing under CCAA. In CCAA, the court oversees the restructuring process to ensure fairness. A member vote (or in the case of corporations, a shareholder vote) is not required.

CCAA allows an organization to maintain its business 'in the ordinary course' while giving it the breathing room necessary to restructure its affairs. This is done to preserve as much of its business as possible for the benefit of employees, members/customers, suppliers and other stakeholders in the communities in which it operates.

**Many are wondering "why wasn't the board more forthcoming or transparent?"**

First of all, we understand that many are upset and apologize for not communicating more or sooner. As a member-based co-op, we know the importance of transparency, and value co-operative principles. But in exercising our fiduciary duty, the board's top priority was preserving jobs and saving MEC from bankruptcy or liquidation. In short, we prioritized MEC's survival.

Since our founding in 1971, MEC's deeply loyal members have been synonymous with who we are and what we do. That will not change. MEC will continue, and our values will be maintained, though it may look a little different.

Kingswood's commitment to honouring the MEC ethos through their Canadian affiliate and the solid financial footing from this transaction gives us tremendous confidence in the future. The Kingswood team, and the incoming CEO, Canadian and longtime MEC member Eric Claus, are very optimistic about MEC's future. That optimism was at the heart of the board's decision to enter into this

agreement. For more information see: [www.alvarezandmarsal.com/MEC](http://www.alvarezandmarsal.com/MEC).

Guided by the last 50 years, we look forward to MEC's continued service to communities across Canada enabling everyone to lead an active outdoor lifestyle.

Thank you for your commitment to MEC,

Judi Richardson  
Chair of the Board of Directors



This message was intended for [jrichardson@shaw.ca](mailto:jrichardson@shaw.ca)  
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Add [news@em.mec.ca](mailto:news@em.mec.ca) to your address book to make sure you get email from  
Mountain Equipment Co-operative.

Contact us at [info@mec.ca](mailto:info@mec.ca). Call us at 1.888.847.0770 (Canada & USA) or 604.876.6221  
(Vancouver area or international).

1077 Great Northern Way, Vancouver BC V5T 1E1

No. S209201  
Vancouver Registry

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In the Supreme Court of British Columbia

IN THE MATTER OF THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND

IN THE MATTER OF MOUNTAIN EQUIPMENT CO-OPERATIVE  
AND 1314625 ONTARIO LIMITED

Petitioners

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**AFFIDAVIT**

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**NORTON ROSE FULBRIGHT CANADA LLP**

Barristers & Solicitors  
1800 – 510 West Georgia Street  
Vancouver, BC V6B 0M3  
Attention: Howard A. Gorman, Q.C.

SCB/ker

Matter# 1001118436